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Elections/ #9  
1642  
10.17.02  
PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Caligiuri *et al.* Confirmation No.: 8842  
Appl No.: 09/855,342 Group Art Unit: 1642  
Filed: May 14, 2001 Examiner: Stephen L. Rawlings  
For: METHODS OF THERAPY FOR CANCERS CHARACTERIZED BY  
OVEREXPRESSION OF THE HER2 RECEPTOR PROTEIN

RECEIVED

OCT 15 2002

Commissioner for Patents  
Washington, DC 20231

TECH CENTER 1600/2900

**RESPONSE TO REQUIREMENT FOR ELECTION OF SPECIES**

This is in response to the Office Action dated September 10, 2002, in which the Examiner has required Applicants to elect a single disclosed species of anti-HER2 antibody for examination on its merits in the event that no generic claim is finally held to be allowable. Applicants hereby elect without traverse the anti-HER2 antibody 4D5 as the single disclosed species; claims 1-21 are readable thereon. Applicants expressly reserve the right to file a divisional application or take such other appropriate measures deemed necessary to protect the inventions encompassed by the nonelected species in the event that no generic claim is finally held to be allowable.

Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned so that further examination of this application can be expedited.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those, which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

*Leslie T. Henry*

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Date of Deposit: October 10, 2002

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Commissioner For Patents, Washington, DC 20231.

*Lynda-Jo Pixley*  
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